PTO/SB/01 (6–95) (modified)
Approved for use through 10/31/96 OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

| 0010/P7<br>Rev. 6/9                  |  | U.S. Department  |  | Attorney Docket                                | Number                         | 5036                                   |                            |                             |  |  |
|--------------------------------------|--|--|--|--|--------------------------------|--|----------------------------|-----------------------------|--|--|
|                                      |  |  |  | First Named Inve                               | entor                          | Stewart K                              | evin Hester                |                             |  |  |
|                                      | DECLARA  | OR   |  | COMPLETE IF KNOWN                              |                                |  |                            |                             |  |  |
| UTILITY OR DESIGN PATENT APPLICATION |  |  |  | Application Number                             |                                | Not Yet Known                          |                            |                             |  |  |
|                                      |  |  |  | Filing Date                                    |                                | August 23                              | , 2000                     |                             |  |  |
|                                      |  |  |  | Group Art Unit                                 |                                | Not Yet K                              | nown                       |                             |  |  |
| [X]                                  | Declaration C<br>Submitted<br>with Initial Filing  | Š  | eclaration<br>ubmitted after<br>nitial Filing                    | Examiner Name                                  |                                | Not Yet K                              | nown                       |                             |  |  |
| My res                               | elow named inventor, I he idence, post office addressive I am the original, first anames are listed below) o | ss, and citizens<br>and sole invent<br>f the subject m | hip are as stated b<br>or (if only one na<br>atter which is clai | me is listed below) or                         | an original,                   | ght on the inver                       | tion entitled:             |                             |  |  |
| the em                               | cification of which  |  | (Title of the  | e Invention)                                   |                                |  |                            |                             |  |  |
| 1                                    | attached hereto  OR  |  | (Title of the  | e Invention)                                   |                                |  |                            |                             |  |  |
| [ ] v                                | vas filed on (MM/DD/YY   | YY) [  |  | ] as United States Ap                          | plication Nu                   | mber or PCT In                         | ternational                |                             |  |  |
| Applic                               | ation Number [   | ] and wa   | s amended on (M  | M/DD/YYYY) [                                   |                                | ] (if applic                           | able).                     |                             |  |  |
|                                      | y state that I have review<br>ed by any amendment spe  |  |  | of the above identified                        | l specificatio                 | n, including the                       | claims, as                 |                             |  |  |
| I ackno                              | owledge the duty to disclotions. § 1.56.   | •  |  | to patentability as de                         | efined in Titl                 | e 37 Code of Fe                        | deral                      |                             |  |  |
| for pat<br>States                    | by claim foreign priority lent or inventor's certifica of America, listed below ny PCT international app     | te, or § 365 (a)<br>and have also                      | of any PCT interidentified below, l                              | national application v<br>by checking the box, | which designates any foreign a | ited at least one<br>application for p | country other tha          | n the United s certificate, |  |  |
| Prior F                              | Foreign Application  | Count  | ·  | reign Filing Date                              |                                | ority                                  | Certified Cop              |                             |  |  |
|                                      | Number(s)  |  | (N   | MM/DD/YYYY)                                    |                                | Claimed                                | YES                        | NO                          |  |  |
|                                      |  |  |  |  |                                | ]                                      | []                         | []                          |  |  |
|                                      |  |  |  |  |                                |  | [ ]                        | []                          |  |  |
|                                      |  |  |  |  |                                | 1                                      | 1 ]                        | [ ]                         |  |  |
|                                      |  | <u> </u>   |  |  |                                | 1                                      | [ ]                        | []                          |  |  |
| [ ] A                                | dditional foreign appli  | ication number   | ers are listed on  | a supplemental price                           | ority sheet a                  | ttached hereto                         | ):                         |                             |  |  |
| I here                               | by claim the benefit und   | ler Title 35, U  | nited States Code  | e § 119(e) of any Ur                           | nited States r                 | provisional apr                        | lication(s) listed         | below.                      |  |  |
|                                      | Application Number   |  |  | Filing Date (MM/DD/YYYY)                       |                                |  | [ ] Additional provisional |                             |  |  |
|                                      | 60/152,138   |  |  | 08/24/1999                                     |                                | application numbers are                |                            |                             |  |  |
|                                      |  |  |  |  |                                | listed on a supplemental               |                            |                             |  |  |
|                                      |  |  |  |  |                                |  | sheet attached hereto.     |                             |  |  |

| DEC  | LARATION   |                |                     |                 |   |             |                      |               |                 |
|--|--|----------------|---------------------|-----------------|---|-------------|----------------------|---------------|-----------------|
| I hereby claim the honest and  | l  | Page 2         |                     |                 |   |             |                      |               |                 |
| I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of American Listed below the Code § 120 of any PCT   |  |                |                     |                 |   |             |                      |               |                 |
| international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35. United States Code 6 112 Legisland to the distribution of the manner provided by   |  |                |                     |                 |   |             |                      |               |                 |
| the first paragraph of Tide 35   | i disclosed in the   | prior United   | d States            | or PCT is       | ternatio  | nal appli   | cation i             | in the mann   | er provided by  |
| patentability as defined in Title  | 37 Code of Fed   | leral Damila   | STATE OF T          | ente me i       | auty to d   | isclose i   | nformat              | ion which i   | 8 material to   |
| prior application and the nation   | nal or PCT intern  | etional Glin   | nous 8 T            | .36 Which       | h became  | e availab   | le betw              | een the filin | g date of the   |
| U.S. Parent Application  | patentability as defined in Title 37, Code of Federal Regulations § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.  U.S. Parent Application  PCT Parent  Parent Filing Date |                |                     |                 |   |             |                      |               |                 |
| Number Number  | Numt   |                |                     | l'atent l'i     | arent Filing Date  MM/DD/YYYY)  Parent Patent Number  (if applicable) |             |                      |               |                 |
|  |  |                | <del> '</del>       | (WIM/DD         | /IYYY   | -           |                      | (if appl      | icable)         |
| <b>l</b>   |  |                |                     |                 |   |             |                      |               |                 |
|  |  |                |                     |                 |   |             |                      |               |                 |
| Additional U.S. or PCT in  | ternational applic   | ation numb     | ers are li          | isted on a      | supplen   | nental ne   | iority al            | net ethebe    | d house-        |
| As a named inventor. I hereby:   | annoint the follow   | ring older     | ./.\                |                 |   |             |                      | COL BUILDING  | d nereto.       |
| As a named inventor, I hereby a business in the Patent and Trad  | emark Office con   | nected these   | y(s) 8nd/           | or agent(       | s) to pro   | scoute th   | is <del>app</del> li | ication and   | to transact all |
| Name   | T  | Registrati     | 1011.               |                 |   |             |                      |               |                 |
| J  |  | Number         |                     |                 |   | Name        |                      | •             | Registration    |
| Greg T. Sueoka   |  | 33,800         |                     |                 | Edward  | A. Van      | C1                   |               | Number          |
|  |  | ,              | l l                 |                 | Davaru  | A. Van      | Greson               |               | 44,386          |
|  | 1  |                | j                   |                 |   |             |                      |               |                 |
|  | ľ  |                |                     |                 |   |             |                      |               |                 |
|  |  |                |                     |                 |   |             |                      |               | l               |
|  |  |                |                     |                 |   |             |                      |               |                 |
|  |  |                |                     |                 |   |             |                      |               |                 |
|  | 1.4  |                | - 1                 |                 |   |             |                      |               |                 |
| I I Addison  |  |                | 14                  |                 |   |             |                      |               |                 |
| Additional attorney(s) and Please direct all correspondence to:  | or agent(s) name   | d on a supp    | emental             | sheet att       | ached he  | TETO        |                      |               |                 |
| - rease direct un correspondence to:   |  |                |                     |                 | -   |             |                      | 3 3           |                 |
| Edward A. Van Gieson<br>Fonwick & West LLP   |  |                |                     |                 |   |             |                      |               |                 |
|  |  |                |                     |                 |   |             |                      |               |                 |
|  |  | Palo Al        | lo Alto :<br>to, CA | Square<br>04204 |   |             |                      |               |                 |
| 77-1   |  | I MU A         | U.S.A.              | 74300           |   |             |                      |               |                 |
| Telephone (650) 858-7997   |  |                | <u> </u>            | Fax             | 1650  | ) 494-14    |                      |               |                 |
| I hereby declare that all statements   | made benefit of  |                |                     |                 |   |             | _                    |               |                 |
| I hereby declare that all statements<br>are believed to be true; and further<br>are punishable by fine or imprison   | that these crateme   | y own know     | edge arc            | true and        | that all st   | atements    | made o               | n informatio  | n and belief    |
| WE DUDINGHOLD BY THE OF IMPLIANCE  |  |                | ,                   | HIV             | use um '  | willful fa  | Ise state            | ments and th  | he like so made |
| And A LOS AND A  | lity of the applicat   | tion or any pr | atent issu          | req thanson     | he United   | 1 States C  | Code and             | l that such w | rillful false   |
| Name of Sole or First Inv  | entor:   |                |                     | been file       |   |             |                      |               |                 |
| Given Stewart  | Mid  | idie i         | Par                 | بدائه           |   | disagne     | a mven               |               |                 |
| - TOWARD   | Nan  | ne Kevi        | n Nan               |                 | ester   |             |                      | ~             | uffix           |
| Inventor's   | <del>7</del>   |                |                     |                 |   |             |                      |               | .g. Jr.         |
| Signature  |  |                |                     |                 | ĺ   | Date        | X                    | 177           | 2000            |
| Residence: City Belmont  | V  |                |                     | <del></del>     |   |             | $-\frac{Q}{2}$       | 0 3/          | 2000            |
| 25 Deliliont   |  | State C        | A C                 | Country         | USA   |             | Ci                   | tizenship     | USA             |
| Mailing Address 3619 Hiller  | Post Theire  |                |                     |                 |   |             |                      |               | USA             |
| - VOLUME TO A STATE OF THE STAT | Of DUAS  |                |                     |                 |   |             |                      |               |                 |
| Mailing Address  |  |                |                     |                 |   |             |                      |               |                 |
|  |  |                |                     |                 |   |             |                      |               | _               |
| City Belmont   |  | State          | 14                  | <u></u>         |   | <del></del> |                      |               |                 |
|  |  |                | CA 2                | Zip   941       | 002   | Co          | untry                | USA           |                 |
| X Additional inventors are being   | named on suppl   | emental she    | et(s) atro          | ched her        | eta   |             |                      |               |                 |
|  |  |                | - (S) GUA           | -inco ilett     | -10   |             |                      |               | -               |

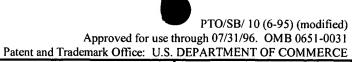
|  |                               | ADDITIONAL INVENTOR(S)   |          |  |            |                      |           |   |                               |
|--|-------------------------------|--|----------|--|------------|----------------------|-----------|---|-------------------------------|
| Name of Additi   |                               | Supplemental Sheet   |          |  |            |                      |           |   |                               |
| Given  |                               | Family   |          |  |            |                      |           |   |                               |
| Name 1 odd   |                               | Name   | Beine    | · ·  |            | e.g. Jr.             |           |   |                               |
| Signature 1000 Some Date Ane 23, 2000  |                               |  |          |  |            |                      |           |   |                               |
| Residence: City  | te CA                         | Country  | USA      |  | Ci         | itizonship           | USA       |   |                               |
| Mailing Address  | 5126 Selinda Way              |  |          |  |            |                      |           |   | •                             |
| Mailing Address  | Mailing Address               |  |          |  |            |                      |           |   |                               |
| City Los Gatos   | Zip                           | 95032  | Co       | ountry   | USA        |                      |           |   |                               |
| Name of Additi   | onal Joint Invent             | or, if any:  |          | A petition   | has been   | filed for ti         | nia uns   | igned invent  | tor                           |
| Givon<br>Name Rainer   | - A                           | Middle   | Kabart ( | Pamily   | (rasehko   |                      |           | Sı  | uffix<br>g. Jr.               |
| Signature  | uiu U                         | well   | 100      |  |            | Date                 | Au        |   |                               |
| Residence: City  | Sunnyvale                     | Stat   | c CA     | Country  | USA        |                      |           | tizenship   | Canadian                      |
| Mailing Address  | 705 San Conrado T             | Terrace, Apt.  | 3        | <del></del>  |            |                      |           |   |                               |
| Mailing Address  |                               |  |          |  |            |                      |           |   |                               |
| City Sunnyvale State CA Zip 94086 Country USA  |                               |  |          |  |            |                      |           |   |                               |
|  |                               |  | tc CA    | Zip 9  | )4086      | Co                   | untry     | USA   |                               |
| Name of Addition   | onal Joint Invent             | or, if any:  |          |  |            |                      |           | USA<br>gned invente                                   | OT.                           |
| Name of Addition   |                               | or, if any:  | []       | A petition l   |            | iled for th          |           | gned invento  | iffix                         |
| Name of Addition   |                               | or, if any:  | []       | A petition l   | has been f | iled for th          | nis unsi  | gned invento  |                               |
| Name of Additional Siven Name Kent Williams Inventor's Signature   |                               | or, if any:  | George 1 | A petition l   | has been f | iled for th          | is unsi   | gned inventors  | effix<br>g. Jr.               |
| Name of Additional Siven Name Kent Williams Inventor's Signature   | fred                          | or, if any: Middle Initial Stute   | George 1 | A petition I   | has been f | iled for th          | is unsi   | gned invento  | iffix                         |
| Name of Addition Given Name Kent Will Inventor's Signature Residence: City S   | Fred  Sunnyvalo               | or, if any: Middle Initial Stute   | George 1 | A petition I   | has been f | iled for th          | is unsi   | gned inventors  | iffix<br>z. Jr.               |
| Name of Addition Given Name Kent Will Inventor's Signature Residence: City Mailing Address   | Fred  Sunnyvalo               | or, if any: Middle Initial Stute   | George 1 | A petition I<br>Family Name R  | has been f | iled for th          | is unsi   | gned inventors  | iffix<br>z. Jr.               |
| Name of Addition Given Name Kent William Inventor's Signature Residence: City S Mailing Address Mailing Address City Sunnyvale Name of Addition  | Sunnyvate  120 E. Remington D | or, if any:  Middle Initial  State  Orive, #415  | George 1 | A petition I Family Name R   | usa Usa    | Date Cou             | Acg Citi  | gned inventors, Su c.g. 23, inventors, izenship       | effix<br>g. Jr.               |
| Name of Addition Given   Kent William Inventor's   Signature   Residence: City   S Mailing Address Mailing Address City   Sunnyvale  Name of Addition Given  | Fred  Sunnyvalo               | or, if any:  Middle Initial  State  Orive, #415  State  Or, if any:  Middle                | George 1 | A petition In Family Name Runner Runn | usa Usa    | Date Cou             | Acg Citi  | gned invento  | effix Z. Jr.  Canadian        |
| Name of Addition Given Name Kent Will Inventor's Signature Residence: City S Mailing Address Mailing Address City Sunnyvale Name of Addition Given Name Inventor's   | Sunnyvate  120 E. Remington D | or, if any:  Middle Initial  State  Orive, #415  State  Or, if any:                        | George 1 | A petition In Family Name R  | USA USA    | Date Couled for this | Acg Citi  | gned inventors, Sure 23, izenship  USA gned inventors | effix<br>g. Jr.               |
| Name of Addition Given Name Kent Will Inventor's Signature Residence: City S Mailing Address Mailing Address City Sunnyvale Name of Addition Given Name Inventor's Signature   | Sunnyvate  120 E. Remington D | or, if any:  Middle Initial  Sinte  Orive, #415  Stat  Or, if any:  Middle Initial         | George 1 | A petition In Family Name Rountry  Zip 9 A petition has a small y lame   | USA USA    | Date Cou             | Acg Citi  | gned inventors, Sure 23, izenship  USA gned inventors | offix Z. Jr.  Canadian  offix |
| Name of Addition Given Name   Kent William Inventor's   Signature   Residence: City   S Mailing Address   Mailing Address   City   Sunnyvale   Name of Addition Civen   Name   Inventor's   Signature   Residence: City  | Sunnyvate  120 E. Remington D | or, if any:  Middle Initial  State  Orive, #415  State  Or, if any:  Middle                | George 1 | A petition In Family Name Runner Runn | USA USA    | Date Couled for this | Acg Citi  | gned inventors, Sure 23, izenship  USA gned inventors | offix Z. Jr.  Canadian  offix |
| Name of Addition Given Name   Kent Wills Inventor's   Signature   Residence: City   S Mailing Address Mailing Address City   Sunnyvale   Name of Addition Given   Name   Inventor's   Signature   Residence: City   Mailing Address  | Sunnyvate  120 E. Remington D | or, if any:  Middle Initial  Sinte  Orive, #415  Stat  Or, if any:  Middle Initial         | George I | A petition In Family Name Rountry  Zip 9 A petition has a small y lame   | USA USA    | Date Couled for this | Acg Citi  | gned inventors, Sure c.g.                             | offix Z. Jr.  Canadian  or    |
| Name of Addition Given Name   Kent William Inventor's   Signature   Residence: City   S Mailing Address   Mailing Address   City   Sunnyvale   Name of Addition Civen   Name   Inventor's   Signature   Residence: City  | Sunnyvate  120 E. Remington D | or, if any:  Middle Initial  State  Or, if any:  State  Or, if any:  Middle Initial  State | George I | A petition In Family Name    Country   Zip   9.   A petition here     Country     Country     Country     Country     Country     Country  | USA USA    | Date Couled for thi  | Acag Citi | gned inventors, Sure c.g.                             | offix Z. Jr.  Canadian  or    |
| Name of Addition Given Name   Kent William Inventor's   Signature   Residence: City   Signature   Mailing Address   City   Sunnyvale   Name of Addition Given   Name   Inventor's   Signature   Residence: City   Mailing Address   Mailing Address   Mailing Address   Mailing Address   City | Sunnyvate  120 E. Remington D | or, if any:  Middle Initial  State  Or, if any:  State  State  State  State                | George I | A petition In Family Name  Zip 9. A petition hamily Iame  Country  | USA USA    | Date Couled for this | Acag Citi | gned inventors, Sure c.g.                             | offix Z. Jr.  Canadian  offix |

Received Aug-23-2000 02:08pm

From-408 965 2665

To-FENWICK & WEST LLP

Page 003



## VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) & 1.27(c))--SMALL BUSINESS CONCERN

Docket Number (Optional): 5036

| Applicant or Patentee: Stewart Kevin Hester, Todd Beine, Rainer Robert Iraschko, Kent Wilfred George Ryhorchuk  |
|---|
| Application or Patent No.:  |
| Filing Date or Issue Date:  |
| Title: FAULT DETECTION AND ISOLATION IN AN OPTICAL NETWORK  |
| I hereby declare that I am  [ ] the owner of the small business concern identified below:  [X] an official of the small business concern empowered to act on behalf of the concern identified below:  |
| NAME OF SMALL BUSINESS CONCERN ONI Systems Corp.  |
| ADDRESS OF SMALL BUSINESS CONCERN 166 Baypointe Parkway   |
| San Jose, CA 95134-1621   |
| I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. |
| I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in:   |
| <ul> <li>[X] the specification filed herewith with title as listed above.</li> <li>[ ] the application identified above.</li> <li>[ ] the patent identified above.</li> <li>If the rights held by the above identified small business concern are not exclusive, each individual, concern or</li> </ul>   |
| organization having rights in the invention must file separate verified statements averring to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).   |
| Each such person, concern or organization having any rights in the invention is listed below:   |
| [X] No such person, concern, or organization exists.  |
| [ ] Each such person, concern or organization is listed below:  |
|   |
| Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)  |
| I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))   |
| I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statements directed.   |
| NAME OF PERSON SIGNING /Lell Will Mike Billon   |
| TITLE OF PERSON IF OTHER THAN OWNER UP of Court Court   |
| ADDRESS OF PERSON SIGNING166 Baypointe Parkway, San Jose, CA_95134-1621   |
| SIGNATURE DATE August 22, 2000  |